

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ONONDAGA-----X  
MARK BATCHELOR,

Plaintiff,

-against-

CUNNINGHAM HIGH SCHOOL,  
THE ROMAN CATHOLIC DIOCESE OF SYRACUSE,  
JOHN DOE and JANE DOE, priests, clergy and  
Administrators whose names are unknown to the  
Plaintiff,

Defendants.

Index No.  
Date Purchased:Plaintiff designates  
ONONDAGA  
County as the place of trial.The basis of the venue is  
Defendants' place of  
business.**SUMMONS**

To the above named Defendant(s)

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
September 9, 2019

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ONONDAGA

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MARK BATCHELOR,

Plaintiff,

Index No.

-against-

CUNNINGHAM HIGH SCHOOL,  
THE ROMAN CATHOLIC DIOCESE OF SYRACUSE,  
JOHN DOE and JANE DOE, priests, clergy and  
Administrators whose names are unknown to the  
Plaintiff,**VERIFIED COMPLAINT**

Defendants.

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Plaintiff, by his attorneys, MICHAEL G. DOWD, as and for Complaint, alleges and  
complains of the Defendants as follows:

**JURISDICTION and VENUE**

1. This action is timely commenced pursuant to the New York State Child Victims Act, dated February 14, 2019, and CPLR § 214-g.
2. This Court has jurisdiction pursuant to CPLR § 301 as Defendants' principal place of business is in New York and because much of the unlawful conduct complained of herein occurred in New York.
3. Venue is proper pursuant to CPLR § 503 because Onondaga County is the principal place of business of Defendant ROMAN CATHOLIC DIOCESE OF SYRACUSE.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**(NEGLIGENT SUPERVISION)**

4. The Plaintiff, MARK BATCHELOR (hereinafter "Plaintiff") was born on February 9, 1960 and currently resides in Oswego, New York.
5. Plaintiff was a Roman Catholic and a student at Defendant BISHOP CUNNINGHAM HIGH SCHOOL (hereinafter "CUNNINGHAM HIGH"), which is a school within the Defendant ROMAN CATHOLIC DIOCESE OF SYRACUSE (hereinafter "DIOCESE").
6. Plaintiff was baptized, confirmed, attended mass, and received his sacraments through the Roman Catholic Church.
7. Upon information and belief, at all times mentioned herein, the DIOCESE was and is a not-for-profit religious corporation organized and existing around and under by virtue of the laws of the State of New York. Its principal headquarters are located in Syracuse, New York, which is in Onondaga County.
8. Upon information and belief, DOUGLAS JOHN LUCIA (hereinafter "LUCIA") is currently the Roman Catholic Bishop of the DIOCESE.
9. Upon information and belief, the Bishop is the Chief Executive Officer of all parishes and parish schools in the DIOCESE and as part of said responsibilities assigned the priests to work in the parishes and schools.
10. Upon information and belief all of LUCIA'S predecessor(s) were the Chief Executive Officer of all parishes and parish schools in the DIOCESE and as part of said responsibilities assigned the priests to work in the parishes, including CHESTER MISERCOLA (hereinafter "MISERCOLA"), this includes those

Bishops who assigned MISERCOLA to his parish and school positions.

11. Upon information and belief, at all times mentioned herein, LUCIA and the above-referenced predecessor Bishops in the Office of the Bishop, along with Defendant DIOCESE, created the policies and procedures to be followed by priests within the DIOCESE. The Office of the Bishop and Defendant DIOCESE were responsible for investigating complaints against its parish clergy. In this capacity, the Office of the Bishop either directly or through Diocesan officials appointed by them, established policies and procedures by which complaints of sexual abuse against parish clergy, priests, and staff were to be dealt with and investigated by the DIOCESE.
12. Upon information and belief, at all times mentioned herein, the Office of the Bishop was also responsible for removing and/or suspending parish clergy and priests from their duties.
13. Upon information and belief, at all times relevant, defendant DIOCESE and the Office of the Bishop were in charge of supervising all Catholic schools within its geographical boundaries, including CUNNINGHAM HIGH and developed and approved the curriculum, both religious and secular, for all these schools.
14. Upon information and belief, at all times mentioned herein, Defendant DIOCESE and the Office of the Bishop also appointed the school principals and controlled the hiring and training of the teachers in its schools.
15. Upon information and belief, at all times mentioned herein, MISERCOLA was a teacher at CUNNINGHAM HIGH having been assigned and otherwise authorized to work there by the then Bishop predecessor of the Office of the Bishop.

16. Upon information and belief, Defendant CUNNINGHAM HIGH is a Roman Catholic parish church within the DIOCESE.
17. Sometime in approximately 1974, Plaintiff met MISERCOLA. Shortly after they met, MISERCOLA began grooming Plaintiff for the purpose of sexually abusing him. The grooming included, but was not limited to, giving Plaintiff special attention and spending time alone with Plaintiff in more intimate settings like locker rooms and showers, and MISERCOLA'S residence located at CUNNINGHAM HIGH.
18. The sexual abuse began in approximately 1974 and included, but was not limited to, MISERCOLA forcing Plaintiff to masturbate while MISERCOLA watched, MISERCOLA fondling Plaintiff's genitals and penis, MISERCOLA touching Plaintiff about his naked body, and MISERCOLA performing oral sex on Plaintiff.
19. The instances of alleged sexual abuse occurred at the following locations: at the housing that CUNNINGHAM HIGH provided MISERCOLA, at MISERCOLA's parents' residence, at Plaintiff's family's home, and at several locations in New York City, including at Fordham University.
20. MISERCOLA abused Plaintiff over three hundred (300) times over the course of two (2) years.
21. Upon information and belief, sometime in 2018 a list of those credibly accused of child sexual abuse was released by the DIOCESE. MISERCOLA was included on the list of credibly accused priests.

22. The fact that MISERCOLA was included on that list is an admission by Defendant DIOCESE that MISERCOLA sexually abused minors.
23. Upon information and belief, Plaintiff was taught and otherwise informed by Defendants DIOCESE and CUNNINGHAM HIGH by word and deed that he should obey, trust, and respect the DIOCESE and MISERCOLA.
24. Upon information and belief, since at least 1950 through the present, Defendants DIOCESE and CUNNINGHAM HIGH knew the risk of sexual abuse of minor parishioners by priests and other staff working in the DIOCESE.
25. Upon information and belief, at all times mentioned herein, Defendants DIOCESE and CUNNINGHAM HIGH knew that minors sexually abused in the Catholic institutions would suffer psychological and emotional injuries, as well as other damages.
26. Upon information and belief, at all times mentioned herein, Defendant DIOCESE aided and abetted the concealment of criminal conduct by failing and refusing to report allegations of child sexual abuse to appropriate New York civil authorities.
27. Upon information and belief, at the time of the acts alleged herein, MISERCOLA was an employee of, and acting as an agent of, Defendants DIOCESE and CUNNINGHAM HIGH.
28. Upon information and belief, Defendants DIOCESE and CUNNINGHAM HIGH had a duty to protect Plaintiff as a minor student and parishioner from MISERCOLA's criminal sexual acts.
29. Upon information and belief, Defendants DIOCESE and CUNNINGHAM HIGH failed to adequately and completely supervise MISERCOLA, and as a result of

this failure and negligence, proximately caused Plaintiff to be sexually abused by MISERCOLA.

30. The aforementioned occurrences of sexual abuse were caused by the negligence, carelessness, recklessness, and the willful, wanton, reckless and grossly negligent conduct of Defendants DIOCESE and CUNNINGHAM HIGH and their agents, servants, and/or employees, in failing to properly and adequately supervise the conduct of MISERCOLA as it related to Plaintiff.
31. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, confusion, humiliation, fright, anxiety, a severe shock to his nervous system, and has been caused to suffer physical pain and mental anguish, emotional and psychological damages as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and that Plaintiff as a result has become and will continue to be obligated to expend sums of money for medical expenses for treatment of said maladies.
32. That by reason of the foregoing, Defendants DIOCESE and CUNNINGHAM HIGH are also liable to Plaintiff for punitive and exemplary damages.
33. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).
34. That the amount of damages sought exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**(NEGLIGENT FAILURE TO WARN)**

35. Plaintiff repeats, reiterates, and realleges each and every allegation contained in the above paragraphs of this Complaint, with the same force and effect as if fully set forth at length herein.
36. Upon information and belief, prior to and at all times herein mentioned, Defendants DIOCESE and CUNNINGHAM HIGH and their agents, servants, and employees, knew or should have known that MISERCOLA violated DIOCESE and CUNNINGHAM HIGH's relevant rules, regulations and protocols prohibiting priests like MISERCOLA from sexually abusing and otherwise harming minor parishioners, including Plaintiff.
37. The Defendants DIOCESE and CUNNINGHAM HIGH and their agents, servants, and employees were negligent, careless and reckless and acted willfully, wantonly and were grossly negligent in failing to warn Plaintiff that the failure of MISERCOLA to abide by DIOCESE and CUNNINGHAM HIGH's rules, regulations and protocols regarding prohibitions on employees being alone with minor parishioners put Plaintiff at risk for being sexually abused by MISERCOLA.
38. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, confusion, humiliation, fright, anxiety, a severe shock to his nervous system, and has been caused to suffer physical pain and mental anguish, emotional and psychological damages as a result thereof, and, upon information and belief, some or all of these

injuries are of a permanent and lasting nature; and that Plaintiff as a result has become and will continue to be obligated to expend sums of money for medical expenses for treatment of said maladies.

39. That by reason of the foregoing, Defendants DIOCESE and CUNNINGHAM HIGH are also liable to Plaintiff for punitive and exemplary damages.
40. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).
41. That the amount of damages sought exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

**AS AND FOR A THIRD CAUSE OF ACTION**

**(NEGLIGENT FAILURE TO PROVIDE A SAFE AND SECURE**

**ENVIRONMENT)**

42. Plaintiff repeats, reiterates, and realleges each and every allegation contained in the above paragraphs of this Complaint, with the same force and effect as if fully set forth at length herein.
43. The Defendants DIOCESE and CUNNINGHAM HIGH assumed a duty to protect the safety and welfare of Plaintiff as more fully set forth above, when Plaintiff participated as a parishioner in CUNNINGHAM HIGH related activities such as attending the parish school, confession, and counseling. This duty imposed upon said Defendants the duty to provide a reasonably safe and secure environment for Plaintiff while he was participating in parish programs.

44. When Plaintiff was in said Defendants' care, said Defendants failed to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.
45. Defendants DIOCESE and CUNNINGHAM HIGH and their agents and employees were negligent, careless and reckless and acted willfully, wantonly and were grossly negligent in failing to provide a safe and secure environment for Plaintiff while he participated as a minor in parish programs and as such was sexually abused by MISERCOLA.
46. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, confusion, humiliation, fright, anxiety, a severe shock to his nervous system, and has been caused to suffer physical pain and mental anguish, emotional and psychological damages as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and that Plaintiff as a result has become and will continue to be obligated to expend sums of money for medical expenses for treatment of said maladies.
47. That by reason of the foregoing, Defendants DIOCESE and CUNNINGHAM HIGH are also liable to Plaintiff for punitive and exemplary damages.
48. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).

49. That the amount of damages sought exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

WHEREFORE, Plaintiff, MARK BATCHELOR demands judgment against the defendants, together with compensatory and punitive damages, and the interest, costs and disbursements pursuant to the causes of action herein.

Dated: New York, New York  
September 9, 2019

Respectfully submitted,



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*Attorneys for Plaintiff Mark Batchelor*

**VERIFICATION BY ATTORNEY**

MICHAEL G. DOWD, an attorney being duly admitted before the courts of the State of New York, hereby affirms the following under penalties of perjury:

That he is an attorney for the Plaintiff in the above-entitled action with offices located at 600 Third Ave, New York, New York; that he has read the foregoing VERIFIED COMPLAINT and knows the contents thereof; that the same is true to his knowledge, except as to the matters stated to be alleged upon information and belief, and that as to those matters he believes them to be true.

That the reason why this verification is made by deponent instead of Plaintiff is because Plaintiff is not within the County of New York where deponent has his office. Deponent further says that the grounds of his belief as to all matters in the VERIFIED COMPLAINT not stated to be upon his knowledge are based upon conversations with the Plaintiff and other writings relevant to this action.

Dated: New York, New York  
September 9, 2019



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